

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

MARILYN KUNELIUS,

Plaintiff,

v.

TOWN OF STOW, et al.

Defendants.

Civil Action No. 05-11697-GAO

**DECLARATION OF PATRICIA MURPHY IN SUPPORT OF THE MOTIONS FOR  
SUMMARY JUDGMENT OF DEFENDANTS THE TRUST FOR PUBLIC LAND AND  
CRAIG A. MACDONNELL**

1. I am an attorney with the law firm of Goodwin Procter LLP, attorneys of record for defendants the Trust For Public Land and Craig A. MacDonnell in the above-captioned case. This declaration is filed in support of the Motions for Summary Judgment of Defendants the Trust For Public Land and Craig A. MacDonnell.
2. Defendants The Trust For Public Land and Craig A. MacDonnell have submitted herewith a Statement of Undisputed Facts in Support of the Motions for Summary Judgment of Defendants the Trust For Public Land and Craig A. MacDonnell and an Appendix to the Statement of Undisputed Facts in Support of the Motions for Summary Judgment of Defendants the Trust For Public Land and Craig A. MacDonnell ("Appendix").
3. Included in the Appendix are true and correct copies of the following documents:  
  
Tab 1.: Excerpts from the deposition transcript of Marilyn Kunelius, dated March 29, 2007.

Tab 2.: Excerpts from the deposition transcript of Marilyn Kunelius, dated April 4, 2007.

Tab 3.: Excerpts from the deposition transcript of Craig A. MacDonnell, dated February 8, 2007.

Tab 4.: Excerpts from the deposition transcript of Dorothy Stookey, dated March 22, 2007.

Tab 5.: Excerpts from the deposition transcript of Serena Furman, dated April 3, 2007.

Tab 6.: Excerpts from the deposition transcript of Serena Furman, dated April 17, 2007.

Tab 7.: Excerpts from the deposition transcript of Karen Sommerlad, dated April 2, 2007.

Tab 8.: Excerpts from the deposition transcript of Peter Kachajian, dated April 25, 2007.

Tab 9.: Excerpts from the deposition transcript of James Boothroyd, dated May 24, 2007.

Tab 10.: Excerpts from the deposition transcript of Edward R. Perry, dated February 26, 2007.

Tab 11.: Excerpts from the deposition transcript of Gregory D. Jones, dated March 5, 2007.

Tab 12.: Portion of the website [www.tpl.org](http://www.tpl.org) (MacDonnell Deposition Exhibit 9).

Tab 13.: The Trust For Public Land "Project Fact Sheet" (Bates Nos. TPL-KUN 01124-01138).

Tab 14.: Purchase and Sale Agreement between Marilyn Kunelius and Cohousing Resources, LLC (Complaint Exhibit 1).

Tab 15.: Certificate of M.G.L. c. 61 classification (Kunelius Deposition Exhibit 1).

Tab 16.: Stow Community Preservation Committee meeting minutes dated February 10, 2003 (MacDonnell Deposition Exhibit 8, Bates Nos. KUN038-041).

Tab 17.: Renewed certificate for Chapter 61 classification, dated June 22, 2004 (Kunelius Deposition Exhibit 14, Bates No. KUN291).

Tab 18.: Listing Agreement for 144 Red Acre Road, dated June 26, 2001 (Boothroyd Deposition Exhibit 1).

Tab 19.: Listing Agreement for 142 and 144 Red Acre Road, dated April 4, 2002 (Boothroyd Deposition Exhibit 3).

Tab 20.: Listing Agreement for 142 and 144 Red Acre Road, dated September 28, 2001 (Boothroyd Deposition Exhibit 2).

Tab 21.: Fax from Chris ScottHanson to Jim Boothroyd dated September 24, 2002 containing a draft purchase and sale agreement (Kachajian Deposition Exhibit 2, Bates Nos. KUNELIUS0029-0034).

Tab 22.: Fax from Chris ScottHanson to James Boothroyd and Peter Kachajian attaching a draft purchase and sale agreement dated September 25, 2002 (Kachajian Deposition Exhibit 3, Bates Nos. KUNELIUS0019-0028).

Tab 23.: Letter dated October 16, 2002 from Peter Kachajian to the Town of Stow (Kachajian Deposition Exhibit 6, Bates Nos. KUN224-234).

Tab 24.: Letter dated January 5, 2003 from TPL to Ross Perry (Perry Deposition Exhibit 9, Bates Nos. KUN501-504).

Tab 25.: Letter dated June 6, 2003 from the Friends of Red Acre to Stow Board of Selectmen (Furman Deposition Exhibit 4, Bates No. KUN419).

Tab 26.: Assignment of the right of first refusal by the Town of Stow to the Trust For Public Land dated February 11, 2003 and acceptance of the assignment by TPL dated February 12, 2003 (Complaint Exhibit 3).

Tab 27.: Letter dated February 12, 2003 from Stow Board of Selectmen to Marilyn Kunelius (Complaint Exhibit 2).

Tab 28.: Letter dated February 13, 2003 from the Trust For Public Land to Marilyn Kunelius (Complaint Exhibit 4).

Tab 29.: Email dated February 4, 2003 from Peter Kachajian to Ross Perry (Kachajian Deposition Exhibit 10, Bates Nos. KUN313-314).

Tab 30.: Letter dated September 24, 2003 from Ross Perry to Peter Kachajian (Perry Deposition Exhibit 8).

Tab 31.: Letter dated June 24, 2003 from Jacob Diemert to Peter Kachajian attaching minutes of the Stow Town Meeting on May 19, 2003 (Bates Nos. KUN412-418).

Tab 32.: Grant application dated April 1, 2003 submitted by Stow to the Department of Housing and Community Development (MacDonnell Deposition Exhibit 11, Bates Nos. KUN337-411).

Tab 33.: Email dated March 21, 2003 from Rodger Brown to Chris LaPointe re: Assistance with DHCD application (Bates Nos. TPL-KUN 03091-03092).

Tab 34.: Email dated January 9, 2003 from Teri Vienot to Peter Christianson re: fundraising in Stow (Bates No. TPL-KUN 02475).

Tab 35.: Email dated February 26, 2003 from Advent Home Inspections to Chris LaPointe re: RFP/Confirmations (Bates Nos. TPL-KUN 02808-02810).

Tab 36.: Email dated March 5, 2003 from Advent Home Inspections to Chris LaPointe re: report for 144, attaching invoice and Cost to Repair Summary (Bates Nos. TPL-KUN 02826-02838).

Tab 37.: Building renovation Proposal from Integrity Building & Design, Inc. to Chris LaPointe dated March 26, 2003 (Bates Nos. TPL-KUN 00103-00105).

Tab 38.: Application for Hearing before the Stow Zoning Board of Appeals (Kunelius Deposition Exhibit 16, Bates Nos. KUNELIUS 0140-0142).

Tab 39.: Email dated July 1, 2003 to Denise Pelletier from Trudy Ernst re: Stow (Bates No. TPL-KUN 01588).

Tab 40.: Letter dated July 10, 2003 from Jacob Diemert to Craig MacDonnell re: TPL – Kunelius Property, Pending Board of Appeals Application (Bates No. TPL-KUN 01819).

Tab 41.: Letter to the Editor dated February 27, 2003 from Marilyn Kunelius, published in the Beacon Villager (Kunelius Deposition Exhibit 12, Bates No. KUNELIUS0191).

Tab 42.: Email dated March 3, 2003 from Karen Sommerlad to Craig MacDonnell re: Marilyn (Sommerlad Deposition Exhibit 6, Bates No. TPL-KUN 02620).

Tab 43.: Letter dated July 2, 2003 from Jane Wallis Grumble of the Department of Housing and Community Development to Ross Perry (Perry Deposition Exhibit 6, Bates No. KUN334).

Tab 44.: Letter dated September 9, 2003 from Craig MacDonnell to Peter Kachajian re: Kunelius Property (Complaint Exhibit 12).

Tab 45.: Email dated August 19, 2003 from Trudy Ernst to Chris LaPointe re: 144 Red Acre Road, Stow, MA (Bates No. TPL-KUN 01712).

Tab 46.: Letter dated May 26, 2004 from Peter Christianson to Marilyn Kunelius (Kunelius Deposition Exhibit 8).

Tab 47.: Plaintiff's Response to Defendants' Interrogatories, dated April 2, 2007.

Tab 48.: Plaintiff's Expert Report of Michael F. Hill, CPA, dated May 14, 2007.

Tab 49.: Letter Report of Geosphere Environmental Management, Inc., dated December 4, 2006, attached as Exhibit B to Plaintiff's Expert Report of Michael F. Hill dated May 14, 2007 (Bates Nos. KUNELIUS 0226-0230).

Signed under the penalties of perjury this 17<sup>th</sup> day of October, 2007.

/s/ Patricia M. Murphy  
Patricia M. Murphy, Esq.

**CERTIFICATE OF SERVICE**

I, Patricia M. Murphy, hereby certify that on October 17, 2007 this DECLARATION OF PATRICIA MURPHY IN SUPPORT OF THE MOTIONS FOR SUMMARY JUDGMENT OF DEFENDANTS THE TRUST FOR PUBLIC LAND AND CRAIG A. MACDONNELL was filed through the ECF system and will be sent electronically to the registered participants as identified in the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants on this date.

/s/ Patricia M. Murphy  
Patricia M. Murphy